IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 99 of 1982

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy of the judgement?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?

PATAN TALUKA MUMAN'S CATTLE BREEDING AND MILK SUPPLYING

Versus

STATE OF GUJARAT

Appearance:

MR AJ MEMON for Petitioner

MR NN PANDYA for Respondent No.1 & 2

None present for Respondent No. 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision:27.9.96

C.A.V. JUDGMENT

The petitioner is an association of Patan Taluka Muman's Cattle Breeding and Milk Supplying. The petitioner and the members of the association are doing the business of cattle breeding and milk supply. Most of the members of the association have their own stables at Goregaon, Jogeshwari and Borivali in the greater Bombay in the state of Maharashtra. The members of the

petitioner-association are residents of Patan taluka where they have got their residential houses and agricultural lands. The members of the petitioner association have got their own Buffaloes which they took to Goregaon, Jogeshwari and Borivali from Patan taluka of this State. To take those Buffaloes to the place in other State as aforesaid, the members of the petitioner-association are required to obtain export permit from the competent authority under the provisions of the Bombay Essential Commodities and Cattle Control Act, 1958 (for brevity, hereinafter referred to as "the Act 1958"). When the exported Buffaloes become dry , i.e. they cease to give milk, the members of the association bring them back to their villages in Patan taluka. When these Buffaloes become milch , they are to be taken back to the places from where they were brought for the said purpose in the State. These dry Buffaloes are also known as salvage Buffaloes. The petitioner has come up with the case that salvage Buffaloes , when they become milch Buffaloes, as stated above, are to be taken back immediately to the places from where they are brought to the State for a limited purpose and any delay in taking back of the milch Buffaloes to the relevant places may result in a loss to the members of the association. The petitioner has given out an explanation for bringing of dry Buffaloes back to this State. It has come up with the case that to keep the dry/salvage Buffaloes at greater Bombay is a costly affair. It has further been said that the stay of salvage Buffaloes at Patan taluka in the state of Gujarat render benefits, both to the members of the association and the State. The export of, or what the petitioner say, taking back of salvage Buffaloes after making them milch Buffaloes here at Patan taluka to the places wherefrom they were brought, the respondents have permitted them only on a permit or export permit taken for the same from the competent authority. This gave rise to filing of Special Civil Application No.186 of 1981 before this Court by the association. The contention of the petitioner in the that petition was that for taking back of the salvage Buffaloes, though after making them milch Buffaloes, no permits or export permits could have been insisted upon and insistence of the same by the respondents has no legal sanctity behind it. That Special Civil Application has been withdrawn by the petitioner, though a copy of the said order has not been produced initially by the petitioner, but on demand of the Court, a certified copy of the same has been produced, which is taken on record. That writ petition has been withdrawn without any liberty to file a fresh petition.

2. The Special Civil Application No.186 of 1981 has been withdrawn on 21.4.1981. This Special Civil Application has been filed by the petitioner before this Court on 11th January 1982. The prayer `A' made by the petitioner in this petition reads as under:

(A) That after examining the legality of the demand of export permit of the Govt. of Gujarat with respect to Salvage buffalo the same may be quashed.

The challenge in this petition is also made by the petitioner to the action of the respondents to insist for the permit/export permit when the members of the association sought to take milch Buffaloes back from Patan taluka, Gujarat, to Bombay in the State of Maharashtra. The cause of action and relief prayed for are same in both these Special Civil Applications.

3. The respondents have contested this petition and a detailed reply has been filed. The respondents have contested this petition on merits and have also raised an objection regarding maintainability of the same on the ground that earlier in respect of the same prayer based on the same cause of action, a writ petition has been filed in this Court and the same has been withdrawn unconditionally and without any liberty to file fresh application and as such, this petition is not maintainable.

4. The learned counsel for the petitioner contended that the action of the respondents to demand permit/ export permit, while the members of the association take back their salvage Buffaloes brought to this State for the purpose of making them milch Buffaloes to the State of Maharashtra, is illegal and has no legal sanction behind it. It has next been contended that the salvage Buffaloes are brought in this State and the very Buffaloes are being taken back and as such, there is no question of demand of any export permit in such case. Those Buffaloes have been earlier exported from this State after obtaining permit, the demand of export permit is illegal. Lastly the learned counsel for the petitioner urged that power to demand or insistence of export permit in such case is not traceable to any provision of the Act 1958 or Orders framed thereunder.

5. On the other hand, the learned counsel for the respondents contended that the demand of export permit of the Buffaloes which have been taken back to the State of Maharashtra, though brought here as salvage Buffaloes for making them non salvage Buffaloes, has a legal sanction

behind it. It is a case of export of cattle and as such, it is permissible only on export permit granted by the competent authority under the provisions of the Act 1958 and the orders framed thereunder. The learned counsel for the respondents had made a reference to the relevant orders which have been framed from time to time under the Act 1958. The learned counsel for the respondents further contended that this petition is barred by the provisions as contained under Order 23, Rule 1 of Civil Procedure Code, 1908. Earlier for the same relief, the petitioner filed a Special Civil Application before this Court and the same has been withdrawn without any liberty to file fresh petition. The petitioner, as such, has no right whatsoever to file the second petition for the same relief based on same cause of action.

6. In rejoinder to the submissions made by the respondents, the counsel for the petitioner contended that the provisions of Civil Procedure Code, 1908, are not applicable to the proceedings under Articles 226 and 227 of the Constitution of India. A reference in this respect has been made by the learned counsel for the petitioner to the provisions of Section 141 of the Civil Procedure Code, 1908.

7. I have given my thoughtful considerations to the submissions made by the learned counsel for the parties. First, I may take the objection taken by the learned counsel for the petitioner regarding the maintainability of this Special Civil Application.

8. First of all, I consider it to be appropriate to decide the preliminary issue which has been raised by the learned counsel for the respondents against the maintainability of this petition before this Court. The learned counsel for the petitioner does not dispute that one of the reliefs prayed for in the Special Civil Application No.186 of 1981 was identical to the relief prayed in the present case. The learned counsel for the petitioner is also in agreement that the Special Civil Application No.186 of 1981 was filed by the petitioner who is also the petitioner in this Special Civil Application before this Court. The respondents were also the parties in the said petitioner which fact has also not been disputed by the learned counsel for the petitioner. The learned counsel for the petitioner is also in agreement that the petition has been withdrawn without reserving any liberty to file the fresh petition. Earlier the Special Civil Application No.186 of 1981 has been withdrawn on 12.5.81 and the order which has been passed by this Court is extracted as below:

"Mr.A.J. Memon withdraws the petition with a view to making a representation to the State Government to devise a proper formula ensuring that dry cattle brought within the State of Gujarat for salvage purposes are not required to obtain export permit. The petition accordingly stands disposed of as withdrawn."

The said writ petition has been withdrawn by the petitioner with a view to make representation to the State Government to devise a proper formulae ensuring that dry cattle brought within the State of Gujarat for salvage purpose are not required to obtain export permit. The controversy raised in the aforesaid writ petition was identical to the controversy which has been raised in the present case. Here also, the petitioner is challenging the action of the respondents to insist for obtaining the export permit for the dry cattle brought within the Stage of Gujarat for salvage purposes. The petitioner has not sought any liberty to file fresh petition also. The contention of the learned counsel for the petitioner is that the provisions of Order 23 , Rule 1 of the Civil Procedure Code, 1908, are not applicable to the proceedings under Article 226 of the Constitution of India as provided u/s. 141 of the Code of Civil Procedure. The Section 141 of the C.P.C. reads as under:

"141. The procedure provided in this Code in regard to suits shall be followed, as far as it can be made applicable, in all proceedings in any Court of civil jurisdiction."

An explanation has been inserted to Section 141 of the Code 1908 by Amendment Act, 1976, with effect from 1.2.77. The explanation provides that expression "proceedings" does not include any proceedings under Article 226 of the Constitution of India. Though the provisions as contained in Section 141 of the Code 1908 excludes the proceedings under Article 226 of the Constitution of India from the applicability of the procedure provided in the Code in regard to the suits to be followed as far as it can be made applicable, but this question is no more res-integra. In the case of Sarguja Transport Service v. S.T.A. Tribunal, Gwalior, reported in AIR 1987 SC 88, the Supreme Court has considered this aspect and held that the principal underlying Rule 1 of Order 23 of the Code, 1908, should be extended in the interests of administration of justice to cases of withdrawal of writ petition also, not on the ground of res judicata, but on the ground of public policy. The

Court has further held that it would discourage the litigant from indulging in bench-hunting tactics. In any event there is no justifiable reason in such a case to permit a petitioner to invoke the extraordinary jurisdiction of the High Court under Art.226 of the Constitution once again. The Supreme Court has further held that the withdrawal of a writ petition filed in the High Court without permission to file a fresh petition may not bar other remedies like a suit or a petition under Art.32 of the Constitution since such withdrawal does not amount to res judicata, the remedy under Art.226 of the Constitution should be deemed to have been abandoned by the petitioner in respect of the cause of action/relief in the writ petition when he withdraws it without such permission. If the principle underlying Rule 1 of Order 23 of the Code, 1908, is adopted in the proceedings under Art.226 of the Constitution also, it would advance the cause of justice. The Supreme Court, in the case aforesaid further observed that it is a common knowledge that very often after writ petition is heard for some time, when the petitioner or his counsel find that the Court is not likely to pass order admitting the petition, request is made by the petitioner or his counsel to permit the petitioner to withdraw the writ petition without seeking permission to institute fresh writ petition. It has further been observed that the Court who is unwilling to admit the petition would not ordinarily grant liberty to file a fresh petition while it may just agree to permit the withdrawal of the petition. It is plain that once the petition under Article 226 of the Constitution filed in this Court is withdrawn by the counsel for the petitioner, the petitioner is precluded from filing the appeal against the order made and the reason is very obvious, he cannot be considered as a party aggrieved by the said order.

9. It is not the case that by withdrawal of writ petition without liberty to file a fresh petition, the petitioner will be remediless. The other remedies are not barred and the petitioner can approach the Civil Court or avail remedy available under Article 32 of the Constitution, but bar is only to file fresh petition before this court. It is a common knowledge that after making submissions where the petitioner's counsel finds that the Court is not inclined to admit the petition, a prayer is made for withdrawal of the same. In such cases, the Court would not ordinarily grant liberty to file fresh petition. In many cases also this Court noticed this fact that after arguing the matter at length or for some time, as the case may be, the petitioner or petitioner's counsel prays for withdrawal of the

petition. The law confers upon a man no rights or benefits which he does not desire. By withdrawal of the petition, the petitioner waives, abandons or disclaims a right and will lose it. The underlying principle under Order 23 of Rule 1 of the Code, 1908, is to prevent the litigant from abusing the process of Court by instituting suits again and again on the same cause of action without any good reason and that is the reason that the Court insists that fresh suit on the same cause of action is only permissible where liberty has been granted. The liberty under Order 23, Rule 1 of the Code, 1908, is not granted on mere asking or praying. The plaintiff has to establish the cause or ground of liberty. I think it to be advisable to extract here the relevant provisions of Sub Rule 3 of Rule 1 of Order 23 of the Code, 1908.

"Where the Court is satisfied,--

(a) that a suit must fail by reason of some formal defect, or

(b) that there are sufficient grounds for allowing the plaintiff to institute a fresh suit for the subject-matter of a suit or part of a claim,

It may, on such terms as it thinks fit, grant the plaintiff permission to withdraw from such suit or such part of the claim with liberty to institute a fresh suit in respect of the subject-matter of such suit or such part of the claim."

So liberty for filing a fresh suit on withdrawal of the suit in question is granted on satisfaction by the Court that the suit may fail by reason of some formal defect or that there are sufficient grounds for allowing the plaintiff to institute a fresh suit in respect of the subject-matter of such suit or such part of the claim. The petitioner, in the present case, withdrew earlier petition with a view to make representation to the State Government to devise a proper formulae ensuring that the dry cattle brought within the State of Gujarat for salvage purposes are not required to obtain export permit. So whatever right the petitioner had in the earlier petition, has been abandoned or waived or disclaimed, for filing of the fresh petition on the same cause or relief. This Court has also considered this question earlier in the case of Natwar Textile Processors Pvt. Ltd. & Anr. v. Union Of India & Ors., reported in 1990(1) GLR 338. In paras 9 & 10 of this judgment, this Court has held as under:

"9. Principles analogous to the provisions of Order 23 Rule 1 of Civil Procedure Code are applicable to the proceedings under Art.226/227 of the Constitution of India also. It is true that there would not be bar or res judicata, but on the grounds of public policy a second petition on the same cause of action cannot be permitted to be filed. Similar question arose before the Supreme Court in the case of Sarguja Transport Service v. S.T.A. Tribunal, Gwalior, reported in AIR 1987 SC 88. Therein the Supreme Court inter alia observed that in considering the effect of withdrawal of writ petition under Art.226/227 of the Constitution of India without permission of the High Court to file a fresh petition, the provisions of Code of Civil Procedure are not in terms applicable to the writ proceedings although procedure prescribed therein, as far as it can be made applicable to the same, is followed by the High Court in disposing of writ petitions. Rule 1 of Order XXIII of the Civil Procedure Code provides for withdrawal of suits and consequences of such withdrawal. Thereafter the Supreme Court has elaborately referred to the provisions of Order XXIII Rule 1 of Civil Procedure Code. In paragraph 7 of the judgment the Supreme Court has observed as follows:

"Whoever waives, an abandons or disclaims a right will lost it. In order to prevent a litigant from abusing the process of the Court by instituting suits again and again on the same cause of action without any good reason the Code insists that he should obtain the permission of the Court to file a fresh suit after establishing either of the two grounds mentioned in sub-rule (3) of Rule 1 of Order XXIII."

The Supreme Court further observed that the aforesaid grounds is not the same as the rule of res judicata contained in Sec.11 of the Code, but it is founded on public policy. IN para 9 of the judgment the Supreme Court further observed that the principle underlying Rule 1 of Order XXIII of the Code should be extended in the interests of administration of justice to cases of withdrawal of writ petition also, not on the ground of res

judicata, but on the ground of public policy. Further observations made by the Supreme Court in the same para is reproduced below:

> "It would also discourage the litigant from indulging in bench-hunting tactics. In any event there is no justifiable reason in such a case to permit a petitioner to invoke the extraordinary jurisdiction of the High Court under Art.226 of the Constitution once again. While the withdrawal of a writ petition filed in High Court without permission to file a fresh writ petition may not bar other remedies like a suit or a petition under Art.32 of the Constitution since such withdrawal does not amount to res judicata, the remedy under Art.226 of the Constitution should be deemed to have been abandoned by the petitioner in respect of the cause of action relied on in the writ petition when he withdraws it without such permission."

10. In the instant case the petitioner withdrew the earlier petition in the same subject matter. Permission of this Court for filing fresh petition in the same subject matter was not sought. The petitioner sought permission only to file appeal before the Tribunal in the same subject matter and on the same grounds. The petitioners filed appeal but withdrew the appeal unconditionally. Thus the petitioners have withdrawn and/or abandoned the remedy of appeal as well as the remedy of writ petition in this High Court."

10. The learned counsel for the petitioner has made further submission that the objection regarding maintainability of this writ petition is not taken by the respondents in the first reply filed in the month of July 1985 and even in the second reply filed on 16th July 1996 and as such, this petition does not deserve to be dismissed on this ground. I do not find any substance in this contention also. Even if the respondents have not raised this objection in their written statement, then also they have a right to raise this objection during the course of hearing of the matter as it is a question which goes to the root of the matter. Moreover, it is not the case of the petitioner that to decide this question, the Court first has to make some adjudication on the question

of facts. The facts, on the basis of which this plea has been taken are not in dispute and as such, whether the objection was taken in the reply or not is hardly of any substance.

11. The petition is maintainable or not may not be a question directly in between the parties, but this Court can also take this objection because otherwise it will entertain the claim which the petitioner has already abandoned, waived or disclaimed. In substance, this is a matter in between the petitioner and the Court and in absence of any objection taken by the respondents, this Court could have and should have gone on this issue. The question regarding the maintainability of this writ petition should be gone into by the Court irrespective of the fact that whether the respondents have raised this plea or not or even if the respondents have given their consent or have no objection to entertain and hear the writ petition on merits. In view of the finding given on the preliminary objection raised by the learned counsel for the respondents, in affirmative, it would not have been necessary to go on the merits of the matter, but looking to the fact that this matter may relate to many other persons also and they may have a right to approach this Court irrespective of dismissal of this petition, I consider it to be appropriate and in larger interest of class of persons who are dealing in such avocation, to decide this matter on merits.

12. The question which is raised for consideration of this Court is whether dry cattle brought within the State of Gujarat for salvage purposes and are to be taken back to the State of Maharashtra, any export permit is to be obtained or not. The contention of the learned counsel for the petitioner is that there is no provision under the Act 1958 or orders framed thereunder which empowers respondents to insist for the export permit for dry buffaloes which have been brought to this State for salvage purposes. On the other hand, the contention of learned counsel for the respondents Shri Pandya is that there is a provision under which the respondents are empowered not to allow any export of cattle of such category without export permit. To appreciate the controversy which has been raised in this case, I consider it to be appropriate to reproduce relevant provisions of the Act 1958 and the Orders framed thereunder:

"4. Powers to control production, supply, distribution, etc.:- (1) If the State Government is of opinion that it is necessary or expedient

so to do for maintaining or increasing the supply, or for securing the equitable distribution and availability at fair prices, of any essential commodity or cattle, it may, by order provided;

(a) for regulating or prohibiting movement, supply and distribution of, or trade and commerce in, such essential commodity;

3[(b) for regulating or prohibiting movement, supply and distribution of or trade and commerce in, or for regulating the maintenance of, cattle]"

(2) Without prejudice to the generality of the powers conferred by sub-section (1), an order made thereunder may provide -

(a) for regulating by licence, permit or otherwise the production or manufacture of any essential commodity;

(b) for regulating by licence, permit or otherwise the storage, movement, transport, distribution, disposal, acquisition, use of or consumption of any essential commodity;

(f) for regulating by licence, permit or otherwise, the movement, transport, distribution, disposal, acquisition, use and keeping of cattle;

3[cl.(b) subs.by Guj.18 of 1983,w.e.f.17.6.83]

The Section provides for regulating by licence or permit, movement, transport, distribution, disposal, acquisition, use and keeping of cattle by issuing order. The respondent No.1, in exercise of powers conferred by clause `f' of Sub Section 2 of Section 4 of the Act 1958, made an Order known as Gujarat Cattle (Export Control) Order, 1961 (hereinafter referred to as the `Order 1961'). The relevant provisions of the said Order are as under:

Clause:3 Restrictions on export of cattle: No person shall export cattle from any place in the State of Gujarat except under and in accordance with the terms and conditions of, a permit issued under clause 4.

Clause:4 Issue of permits: (1) Where any person

desires to export any cattle for a limited period not exceeding four months for any purpose to be specified by him, the Collector may issue a permit to such person on condition that the cattle so exported shall be brought back in the State before the expiry of the period specified in the permit.

(2) In any other case, a permit for the purpose of clause 3 may, on an application made in that behalf be issued by the Collector of the District concerned.

(3) A permit under sub-clause (2) shall be issued on payment of a fee of twenty rupees (Twenty only) per head of cattle.

Clause:5 Failure to bring back cattle will be breach of permit - If a person fails to bring back the cattle exported under a permit issued under sub-clause (1) of clause 4 in compliance with the conditions of that permit, then for the purposes of clause 3, he shall be deemed to have exported the cattle without a permit.

13. The Government has made another Order in exercise of powers conferred by clause `f' of Sub Section 2 of Section 4 of the Act, 1958, which is named as the Gujarat Cattle (Import Control) Order 1982 (hereinafter referred to a the `Order 1982'), and the relevant provisions thereof are as under:

Clause:2(b) `import' means to bring into the state of Gujarat otherwise than across the customs frontier.

Clause:3 Restrictions on import of cattle:

(1) No person shall import except under and in accordance with the terms and conditions of a permit issued to him under this clause.

(2) Where any person desires to import any cattle, he shall make an application for the same to the Collector of the district in which the cattle is to be

imported and the Collector may, after taking into consideration the availability of fodder and water in the district for the existing therein either issue or refuse to issue an import permit to such person.

(3) For the issue of an import permit there shall be a charged a fee of Rs.20/per each cattle permitted to be imported.

Clause:7 Information regarding import to be supplied to authorised officer:

Any person, who imports, cattle, shall, on demand by an officer authorised by the Collector, show the import permit, if any, issued to him under clause 3 and also furnish information in form `A'.

14. Vide notification dated 11.5.83, a proviso has been added to Clause 3 of the Order 1961. This proviso reads as under:

"Provided that where a permit is to be issued to a person for export of such head of cattle as is earlier imported under an import permit issued to him under clause (3) of the Gujarat Cattle (Import) Control Order, 1982 for the purpose of salvage, no fee shall be payable by such person, in respect of such permit."

15. From the relevant provisions as aforesaid, it comes out that the non salvage buffaloes which are taken from this State after taking permit under the Sub Clause 2 of Clause 4 of the Order 1961, it ceases to be the cattle of the State. In case for any reason whatsoever including the reason that the exported non salvage Buffaloes become dry cattle/salvage Buffaloes, are to be taken back in this State for any reason or purpose or object, it is permissible only under an import permit to be taken under the provisions of the import control Order of 1982. `Import' has been defined under Import Control Order of 1982. `Import' has been defined as to bring into the State of Gujarat otherwise than across customs frontier. The Clause 3 of Orders 1982 put restriction on import of cattle, that is in the State no person shall import, except in accordance with the terms and conditions of the permit issued to him under the said clause. Any person desires to import any cattle, shall make an application for the same to the Collector of the

District in which the cattle is to be imported and the Collector may, after taking into consideration the availability of fodder and water in the district for the existing therein either issue or refuse to issue import permit to such person. Fees has to be paid also for grant of permit. Clause 7 of Order 1982 puts an obligation upon the person who imported cattle to show permit on demand by an officer authorized by the Collector.

16. The next stage comes when the person who imported cattle may be dry cattle or salvage cattle, again wants to take back it to other neighbouring State. It is a case of export of a cattle. This export of cattle is permissible only on grant of permit under Sub Clause 2 of the Clause 4 of the Order 1961 and not otherwise. The word `export' means to take or cause to be taken out of the State of Gujarat otherwise than across a customs frontier. The term `cattle' means any of the animals mentioned in entries 1 to 6 in Part II of the Schedule attached to the Act 1958. In the Schedule attached to the Act 1958, no distinction has been drawn in between a dry Buffaloe or milch Buffaloe. The intention of the legislature is that on import of such a Buffaloe, the permit is necessary under the Order of 1961 clearly spelt out from the proviso which has been inserted to the Sub Clause 3 of Clause 4 of Order 1961. As stated earlier a permit under Sub Clause 2 of Clause 4 of the Order 1961 shall be issued only on the payment of fees of Rs.20/per head of cattle. Now in case the very Buffaloe has been brought back hereafter it becomes a dry Buffaloe or salvage Buffaloe and is sought to be exported after it becomes a non salvage or milch Buffaloe, exemption has been given in grant of export permit fees which is payable otherwise under Sub Clause 2 of Clause 4 of the Order 1961. Under Clause 3 of the Order 1982, import permit fees is of Rs.20/- per cattle permitted to be imported. The learned counsel for the petitioner has failed to point out any provisions under the Act 1958 or Order 1961 or 1982 which exempts cattle which has been brought here under import permit for whatever reason or purpose can be exported without taking any export permit. Exemption is only made from payment of export permit fees when the imported cattle is sought to be exported. This intention of the respondent is clearly borne out from reading of the proviso which has been inserted to the Sub Clause 3 of Clause 4 of the Order 1961. A close and minute reading of all the provisions of the Act 1958 and Orders 1961 and 1982 give out that it is incumbent to have a permit for export of Buffaloe from the limits of the State of Gujarat by a person irrespective of the fact

that the said Buffaloe was earlier exported from here, imported back here as it becomes dry cattle or non salvage under an import permit. The Order 1961 has been framed by the Government of Gujarat for maintaining increasing supply of milk in the State of Gujarat and certain cattle, as specified in the schedule, considering it to be necessary and expedient to regulate movement of such cattle to place outside the State of Gujarat, otherwise then across the custom frontier. Under Section 4(2)(f) of the Act 1958, the State has powers to frame Orders for export permit for the movement of cattle. The cattle may be salvage or non salvage as the Act does not differentiate on this count. The respondent has all the authority and powers to demand export permit from the petitioner's members on their export of non salvage or milch Buffaloes to the other State irrespective of the fact that this cattle were brought here under import permit for the purpose and object of making them milch Buffaloe or non salvage Buffaloe. The petitioner has failed to make out any case for interference of this Court. The prayer made by the petitioner in this Special Civil Application cannot be granted as I find legal sanction behind the action of the respondents to demand export permit from the members of the petitioner where they intend to export Buffaloes from this State after they become non salvage to the other State.

17. In the result this Special Civil Application fails and the same is dismissed. Rule is discharged. The petitioners are directed to pay Rs.2,000/- by way of costs of this petition to the respondent No.1. The respondent No.1 is directed to deposit this amount of costs on receiving the same from the petitioner, in the Chief Minister Relief Fund.

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(sunil)